

event, the Agency shall advise the submitter in writing of its decision concerning whether the information shall be disclosed in the public docket.

(ii) [Reserved]

(2) Notice of the Agency's intention to disclose the submitted information is not required if the Administrator determines that the entity submitting such information has authorized its disclosure to the public.

(3) If, at the time the Administrator determines that the submitted information fails to comply with the requirements set forth in paragraph (f), such information is the subject of a FOIA request, the requirements of 49 CFR 7.29 shall apply.

[80 FR 32864, June 10, 2015]

Subpart B—Procedures for Adoption of Rules

§ 389.11 General.

Except as provided in § 389.39, Direct final rulemaking procedures, unless the Administrator, for good cause, finds a rule is impractical, unnecessary, or contrary to the public interest, and incorporates such a finding and a brief statement for the reason for it in the rule, a notice of proposed rulemaking must be issued, and interested persons are invited to participate in the rulemaking proceedings involving rules under an Act.

[75 FR 29916, May 28, 2010]

§ 389.13 Initiation of rule making.

The Administrator initiates rule making on his/her own motion. However, in so doing, he/she may, in his/her discretion, consider the recommendations of his/her staff or other agencies of the United States or of other interested persons.

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]

§ 389.15 Contents of notices of proposed rule making.

(a) Each notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes:

(1) A statement of the time, place, and nature of the proposed rule making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 389.17 Participation by interested persons.

(a) Any interested person may participate in rule making proceedings by submitting comments in writing containing information, views, or arguments.

(b) In his/her discretion, the Administrator may invite any interested person to participate in the rule making procedures described in § 389.25.

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]

§ 389.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received in duplicate not later than three (3) days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the FEDERAL REGISTER.

§ 389.21 Contents of written comments.

All written comments must be in English. Any interested person must submit as part of his/her written comments all material that he/she considers relevant to any statement of fact made by him/her. Incorporation of material by reference is to be avoided. However, if such incorporation is necessary, the incorporated material shall

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be identified with respect to document and page.

[80 FR 59073, Oct. 1, 2015]

§ 389.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rule making proposal. Late filed comments may be considered as far as practicable.

§ 389.25 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that he/she finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his/her representative at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript or minutes are kept, or to participate in any other proceeding to assure informed administrative action and to protect the public interest.

[78 FR 58482, Sept. 24, 2013]

§ 389.27 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, non-adversary, fact-finding procedures at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel of the Federal Motor Carrier Safety Administration designates a member of his/her staff to serve as legal officer at the hearing.

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]

§ 389.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Adminis-

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trator for his/her consideration. If the Administrator adopts the rule, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]

§ 389.31 Petitions for rule making.

(a) Any interested person may petition the Administrator to establish, amend, or repeal a rule.

(b) Each petition filed under this section must:

(1) Be submitted in duplicate to the Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001;

(2) Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested;

(4) Contain any information and arguments available to the petitioner to support the action sought.

[35 FR 9209, June 12, 1970, as amended at 45 FR 46424, July 10, 1980; 53 FR 2036, Jan. 26, 1988; 72 FR 55702, Oct. 1, 2007]

§ 389.33 Processing of petition.

(a) Unless the Administrator otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Administrator determines that the petition contains adequate justification, he/she initiates rule making action under this Subpart B.

(c) *Denials.* If the Administrator determines that the petition does not justify rule making, he/she denies the petition.

(d) *Notification.* Whenever the Administrator determines that a petition should be granted or denied, the Office of the Chief Counsel prepares a notice of that grant or denial for issuance to the petitioner, and the Administrator issues it to the petitioner.

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]